IN THE HIGH COURT OF BOMBAY AT GOA.

CRIMINAL APPEAL NO. 13 OF 2005

Marc Laligand
presently lodged at
Central Jail, Aguada,
Sinquerim, Bardez, Goa. ..... Appellant

V e r s u s

State of Goa,
As represented by
Officer in Charge,
ANC Police Station,
Panaji, Goa. ..... Respondent

Ms. C. Collasso, Advocate for the Appellant-Accused.

Ms. Winnie Coutinho, Public Prosecutor for the State/Respondent.

CORAM: N. A. BRITTO, J.

DATED: 28th September, 2006.

ORAL JUDGMENT

Heard Ms. Collasso, the learned Counsel on behalf of the appellant-accused and Ms. Coutinho, the learned Public Prosecutor on behalf of the respondent.

2. The appellant is the accused, who has been convicted/sentenced under Section 22 (a) of the N.D.P.S. Act, 1985, to undergo RI for a term of six months and to pay a fine of Rs.10,000/- in default to undergo RI for a further term of fifteen days. It is seen from the Judgment of the learned Special Judge that the accused was under detention from 21.12.2002 to 28.01.2003. It has been submitted on behalf of the accused that after conviction and sentence, the accused underwent imprisonment from 13.04.2005 to 25.04.2005 and considering the said period of detention/imprisonment for the period of little less than two months, the sentence imposed upon the accused be considered sufficient in the facts and circumstances of the case considering that the accused was found with a small quantity, for which, maximum sentence provided is a period of six months and fine of Rs.10,000/-. It has been submitted by learned Advocate on behalf of the accused that the accused had already paid the said fine of Rs.10,000/-. The learned Advocate on behalf of the accused has also submitted that the accused was 23 years of age at the time of commission of offence and wants to go back to his Country in order to get married and any sentence more than undergone by the accused, would only come in the way of the accused leading to normal family life after his marriage.

3. Considering the above, the conviction against the accused under Section 22 (a) of the N.D.P.S., Act, 1985, is maintained. As far as the sentence is concerned, the same is reduced. In other words, the period of detention/imprisonment undergone by the accused from 21.12.2002 to 28.01.2003 and 13.04.2005 to 25.04.2005, shall be considered as substantive period of imprisonment imposed upon the accused in addition to the fine which has already been paid by the accused. In other words, the accused will not be required to undergo any further sentence of imprisonment.

4. Consequently, the appeal is partly allowed. The conviction under Section 22 (a) of the N.D.P.S. 1985, is upheld. The sentence is reduced as already undergone. The bail bonds of the accused shall stand cancelled. The passport of the accused be returned to him in case it is not otherwise required in connection with any other case.

N. A. BRITTO, J.

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